

United States District Court
Eastern District of Michigan

United States of America

ORDER OF DETENTION PENDING TRIAL

v.

Guillermo Gutierrez-Pasencia

Case Number: 05-80855

Defendant

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

(1) I find that:

- ☐ there is probable cause to believe that the defendant has committed an offense
☐ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or _____;
☐ under 18 U.S.C. § 924(c).

(2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

X I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

X I do not find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- X (a) nature of the offense—involves disregard of court and Immigration orders not to return to USA
X (b) weight of the evidence—defendant found here, has been here for some time, living in Detroit for two years per PTS information, married
X (c) history and characteristics of the defendant -substantial ties to US, including wife, mother and father and siblings in Los Angeles; is in the US illegally however.
X 1) physical and mental condition—minimal substance abuse and no history of mental illness
X 2) employment, financial, family ties—employed at Grounds and Gardens in Warren
X 3) criminal history and record of appearance—felony car theft, other traffic and stolen vehicle charge
X (d) probation, parole or bond at time of the alleged offense—not on probation or parole
X (e) danger to another person or community—No history of violence but possession of a handgun of some concern, but for history of failure to appear, and immigration hold, would be a candidate for bond. However, long record and disregard for court orders indicates otherwise despite strong family ties to this area and employment.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

September 27, 2005

Date

s/Virginia M. Morgan

Signature of Judge

Virginia M. Morgan, United States Magistrate Judge

Name and Title of Judge